

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 22 of 2005

Between:

M/s.Sirpur Paper Mills Limited, rep., by its General Manager
V.V.S.Prasad, Regd.Office H.No.5-8-22/1/1, First Floor, Opp:New MLA Qrts.Gate,
Adarshnagar, Hyderabad-500 063.

..... PETITIONER

AND

- 1 The Assistant Provident Fund Commissioner, Sub Regional Office, Warangal.
- 2 The Branch Manager, State Bank of Hyderabad, Kagaznagar, Adilabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of a writ of Mandamus declaring the prohibitory order No.AP/SROWGL/148 ADB/ENF/2004/3034 dt.30-12-2004 issued by R.1 to R.2 as illegal, arbitrary and violative of Art.14 and 300-A of the Constitution of India and the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and consequently set aside the same and pass such other order or orders.

Counsel for the Petitioner:MR.M.KRISHNA MOHAN RAO

Counsel for the Respondents: MR.R.N.REDDY

The Court, at the stage of admission, made the following :

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ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondents. At their request, the writ petition is disposed of finally at the stage of admission.

Learned counsel for the petitioner submits that against the impugned order, the petitioner has a right of appeal to the appellate authority within sixty days, and even before that period, the 1st respondent passed Prohibitory Order dated 30.12.2004, attaching the bank account of the petitioner, which according to the petitioner is arbitrary and illegal. He further submits that the enhanced pay is subject to the pending decision by the High Court. In view of the same, calculation of the amounts on the said enhanced pay, for the purpose of provident fund does not arise.

Learned counsel for the respondents submits that in similar matters, the petitioners therein, have deposited 50% of the amount so demanded, and on such deposit, the attachment has been ordered to be raised. Therefore, he states that similar order can be passed in the present writ petition also.

Having heard the counsel, the prohibitory order, dated 30.12.2004, passed by the 1st respondent is stayed subject to the petitioner depositing 50% of the principal amount, i.e., 31,50,000/- within one month from the date of receipt of a copy of this order. As and when the amount is deposited by the petitioner, the Prohibitory Order shall be lifted. The deposit of the amount shall be subject to the final order that may be passed by the appellate authority, on the appeal to be filed by the petitioner. The appellate authority shall entertain the appeal including the waiver petition, and decide the same uninfluenced by any of the observations made by this Court. If no appeal is filed, respondents are at liberty to proceed further in the matter.

Accordingly, the writ petition is disposed of. No order as to costs.

(A.GOPAL REDDY,J)

Date: 05.01.2005

NOTE: Issue wire at

Party's cost.

(B/o.)

ts/gj

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To

- 1 The Assistant Provident Fund Commissioner, Sub Regional Office, Warangal.
- 2 The Branch Manager, State Bank of Hyderabad, Kagaznagar, Adilabad District.

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